

September 8, 2005

**Via ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: *Notice of ex parte presentation - CC Docket No. 96-45*

Dear Ms. Dortch:

On this date the undersigned, on behalf of Dobson Cellular Systems, Inc. and American Cellular Corporation (collectively, "Dobson"), placed a telephone call to Anthony Dale of the Office of Chairman Martin to discuss pending petitions for designation as an eligible telecommunications carrier ("ETC"). I noted that Dobson's bifurcated petition for ETC designation in the state of New York has been pending since early May 2004.<sup>1</sup>

This week's grant of the forbearance petition filed by TracFone Wireless, Inc. ("TracFone") to permit it to be designated as an ETC despite the fact that it is a pure reseller has drawn attention to TracFone's ETC petitions.<sup>2</sup> I observed that TracFone's ETC petitions were filed well after Dobson's petition – ranging from one month later (New York) to six months later (Connecticut and Massachusetts).<sup>3</sup> I argued that no justification exists to process TracFone's ETC petitions ahead of other ETC petitions that have been pending for longer periods of time, such as Dobson's. Although the Commission had to act on TracFone's forbearance petition by

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<sup>1</sup> Dobson Cellular Systems Inc. and American Cellular Corporation Joint Petition for Designation as Eligible Telecommunications Carriers in the State of New York (No Rural Redefinition Requested), CC Docket No. 96-45 (filed May 3, 2004); Dobson Cellular Systems Inc. and American Cellular Corporation Joint Petition for Designation as Eligible Telecommunications Carriers in the State of New York (Rural Redefinition Requested), CC Docket No. 96-45 (filed May 10, 2004)

<sup>2</sup> *FCC Conditionally Grants TracFone's Petition for Forbearance*, News Release (rel. Sept. 6, 2005).

<sup>3</sup> TracFone's petitions were filed on June 7, 2004 (New York); July 21, 2004 (Florida and Virginia); and November 9, 2004 (Connecticut and Massachusetts).

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the statutory deadline,<sup>4</sup> there is no reason that TracFone should not now wait its turn for processing of its ETC petitions.

As required by the Commission's ex parte rules, this letter is being filed electronically in the above-referenced docket. Please direct any questions regarding this filing to the undersigned.

Sincerely,

WILKINSON BARKER KNAUER, LLP

By:                     /s/                      
L. Charles Keller

cc: Anthony Dale  
Narda Jones  
Mark Seifert  
Mitchell Brecher, counsel to TracFone

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<sup>4</sup> 47 U.S.C. § 160(c).